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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,937	03/26/2004	Michael R. Lax	AUT/017	9882
1473	7590	12/15/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/810,937	LAX ET AL.	
Examiner	Art Unit	
Bryon P. Gehman	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 14-16, 29-31 and 45-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13, 17-23, 25-28, 32-39 and 41-44 is/are rejected.
- 7) ☒ Claim(s) 9, 24 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This application contains claims directed to the following patentably distinct species of the claimed invention: I) Figures 1-15; II) Figures 16-18; III) Figures 19-29; IV) Figure 30; and V) Figures 32-36.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Edward Arons on November 29, 2005, a provisional election was made without traverse to prosecute the invention of species I, claims 1-13, 17-28 and 32-44. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-16, 29-31 and 45-47 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-3, 18-19 and 33-34 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each claim, the container is referenced. However, the "container" of parent claims 1, 17 and 32 is an imaginary adjunct, so the further limitations of a structure extraneous to claimed structure distinguishes nothing to the claimed subject matter.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Spagna (6,896,133). Claims 1, 3, 6 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Guttadauro et al. (2004/0040349). Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Hai (6,651,811). Claims 1-3, 5-8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakasuji (5,896,985). Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Koch (5,894,924). Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rentch (4,499,994). Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald et al. (4,425,999). Each discloses a device for securing an asset within a container, comprising a base member (30; 32; 20; 11 or 4; 13; 18; 11; respectively) comprising a first portion (54; 44; inside 20; 32 or 42; 24; 20; 13) and a second portion (42-52; 65 or 42 and 65; 26; 31 or 41; 14; 29; 15), and a locking member (32; 34; 12; 4 or 11; 16-19; 16; 19) configured to engage the second portion so that the asset is secured between the base member and the locking member and a portion (50; 40; 41 or 31; 18; 38; 21) of the locking member is configured to be acted upon by an applied force so that the locking member disengages the second portion.

As to claims 2-3, since the container is defined as extraneous to the claimed device, the further limitation of the container fails to further distinguish the device.

However, Spagna discloses a snap mechanism (20) and Guttadauro et al. disclose hub members (40) secured to the container.

As to claim 4, Spagna, Rentch and MacDonald et al. disclose the base member removably coupled to a container (10; 71).

As to claim 5, each discloses a protrusion (34; 24; 31; 17; 36; 13).

As to claims 6-8 and 10-11, Guttadauro et al. and Nakasuji each disclose a plurality of receptacles (64-64"; 31 or 41) and a plurality of latches (70; other of 31 and 41), the latches being at radially different locations, their relative size being a matter of choice and degree.

As to claim 13, Spagna discloses applying a magnetic force to open the device.

7. Claims 17-18, 21, 28, 32-34, 36 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Spagna. Claims 17, 19, 22-23, 26, 32, 37-39 and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Guttadauro. Claims 17, 21, 32, 34 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Hai. Claims 17, 21-23, 26-27, 32, 36-39 and 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakasuji. Claims 17-18, 21, 32-33 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Koch. Claims 17, 20-21, 32 and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Rentch. Claims 17, 20-21, 32 and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald et al.. The structure of the references has been discussed above. To merely provide and use the structure in the manner disclosed is also disclosed by these references.

As to claims 18 and 33, Koch and Spagna each disclose a snap mechanism (17, 18 or 27;).

As to claims 20 and 35, Rentch and MacDonald et al. disclose the base member removably coupled to a container (10; 71).

As to claims 21 and 36, all but Guttadauro et al. disclose a protrusion (34; 24; 31; 17; 36; 13).

As to claims 22-23, 25-26, 37-39 and 41-42, Guttadauro et al. and Nakasuji each disclose a plurality of receptacles (64-64"; 31 or 41) and a plurality of latches (70; other of 31 and 41), the latches being at radially different locations, their relative size being a matter of choice and degree.

8. Claims 9, 24 and 40 would each be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG